

MMIP FAQ #2

June 2005

1. How will the Office of Administrative Hearings (OAH) order actions of the Area Agency on Aging (AAA) such as continued benefits, stays, back payments, provider reinstatements, exceptions to rule (ETR), waived services, etc., when the AAA has no financial or programmatic authority with Evercare clients?

ANSWER: The only time this would come into play would be if you deny an ETR or reduce hours. If this occurred you would be required to defend the assessment and if you were unsuccessful in doing so, the judge's order would need to be communicated to Evercare and they are required to observe the order of the Administrative Law Judge (ALJ).

2. Is OAH aware of Evercare and do they accept the premise of a department rep. (AAA) with no fiscal or program decision making authority coordinating the fair hearing?

ANSWER: For your hearings this is irrelevant. This process is already in place for DSHS Healthy Options and has been for a number of years.

3. If a client and their provider fair hear a CARE hour reduction, ETR denial and request back pay and provider reinstatement, will the AAA and Evercare simultaneously coordinate separate fair hearings?

Answer: The AAA is only responsible for the decisions that it makes regarding a client's services.

4. If the AAA is ordered to reimburse for pay back to a provider on an hour reduction issue, then will the AAA simply fax the OAH order to Evercare and Evercare complies?

ANSWER: Yes.

5. Do we appeal OAH's decisions or does Evercare?

ANSWER: You would be responsible for appeals regarding your hearings.

6. If Evercare refuses to comply with an OAH order to the AAA, will the AAA be liable to the appellant or be held in contempt of court?

ANSWER: Evercare is contractually obligated to provide the number of personal care hours determined by our system. In any case the AAA would not be responsible or liable for inaction on the part of Evercare.

7. If Evercare and the AAA have different interests regarding a CARE hour reduction, then will Evercare advocate or represent the client or their provider in the hearing or refer the client to OAH or a legal advocacy group? Will Evercare be witnesses for the client's representative e.g. legal group against the AAA?

ANSWER: DSHS cannot envision a situation where this would be the case, as Evercare is free to authorize as many hours over the assessed amount as they wish.

8. How does the AAA access healthcare information necessary to defend a fair hearing on a client we have little or no information and no release of information? Will Evercare share information with us without signed authorization or will the AAA be required to subpoena all witnesses?

ANSWER: It depends on the type of information you need, some information will require authorization; most would not given the relationship between the two entities.

9. How will the AAA know who to subpoena and what to ask the witnesses?

ANSWER: The assessment should be based on information gathered during the assessment process, you would defend your assessment for these cases in the same manner that you do for assessments you are doing today for fee-for-service (FFS) clients.

10. Will the AAA continue to complete the algorithm reviews and ask the Aging and Disability Services Administration (ADSA) to testify as expert witnesses for Evercare clients?

ANSWER: Yes.